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## [S. 1177, Every Student Succeeds Act \(Conference Report\)](#)

### FLOOR SITUATION

On Wednesday, December 2, 2015, the House will consider the Conference Report to [S. 1177](#), now known as the *Every Student Succeeds Act*, under a [rule](#). The House version of the bill to replace *No Child Left Behind*, H.R. 5, the *Student Success Act*, was introduced on February 3, 2015 by Rep. John Kline (R-MN) and passed the House by a vote of [218 to 213](#) on July 8, 2015. The Senate passed its version of the bill, the *Every Child Achieves Act of 2015* (S. 1177), by a vote of [81 to 17](#) on July 16, 2015.

### SUMMARY

The Conference Report to S. 1177 revises and reauthorizes the Elementary and Secondary Education Act (ESEA) of 1965, the primary federal law governing K-12 education, for fiscal years 2017 through 2020. The Conference Report replaces the *No Child Left Behind Act* with provisions designed to:

- Restrict the authority of the Secretary of the Department of Education (ED) to impose requirements on states and schools through waivers and executive action;
- Prohibit the ED from forcing, coercing, or incentivizing states into adopting Common Core standards;
- Eliminate the high-stakes strings attached to annual reading and math assessments required by the law;
- Repeal the Adequate Yearly Progress (AYP) performance measurement system;
- Restore local control over education decisions affecting accountability and school improvement;
- Eliminate 49 ineffective or duplicative federal education programs;
- Establish a block grant with existing federal dollars that states and school districts can use to fund priorities established at the local level;
- Support the replication of high quality charter schools and improve the magnet schools program; and,
- Prohibit federal education dollars from funding abortions.

Click [here](#) for the previous Legislative Digest on the House-passed version of H.R. 5.

Comparison of select provisions of House-passed bill to the Conference Report:

Authorization period: The House bill reauthorizes the ESEA for four years, through fiscal year 2020. The Conference Report retains the limited authorization period.

Funding: The House bill authorized funding from fiscal year 2016 through fiscal year 2019 at fiscal year 2015 appropriated levels. The Conference Report authorizes funding at levels consistent with the new budget caps for fiscal year 2017, the first year of the authorization, and provides increases of approximately 2 percent each fiscal year thereafter. Total authorized spending in fiscal year 2020 would be 10 percent less than the total authorized spending for fiscal year 2007 under *No Child Left Behind*.

Repeal of ineffective and duplicative programs: The House bill eliminated 68 federal education programs. The Conference Report eliminates 49 programs and maintains the House provision that requires the Secretary of Education to identify the number of full-time equivalent positions associated with eliminated programs and to reduce those positions by an equal amount.

Common Core: The House bill prevented any agent of the federal government—including the Secretary of Education—from incentivizing, requiring, or conditioning receipt of federal funds on the use of Common Core or any other specific set of academic standards, and specifically allows states to withdraw from the Common Core without penalty. The Conference Report retains these provisions.

Local control and accountability: The House bill eliminates federally-prescribed accountability systems, school turnaround models and other interventions, and puts states and school districts in charge of designing their accountability and intervention systems. The House bill would have allowed parents in any state to opt their children out of the annual assessment regardless of the requirement in federal law that schools and states assess 95 percent of their children. The Conference Report allows parents to opt their child out of the annual assessment if state law permits and gives states the freedom to decide how that may impact a school if fewer than 95 percent are assessed. The Conference Report includes broad guidelines for states as they design their accountability systems, such as long-term academic goals and measures of interim academic progress. States and school districts would be fully in charge of determining and implementing the specific details associated with these broad guidelines. States would have to identify the lowest performing (lowest 5 percent) schools, high schools with low graduation rates (67 percent or less), and other schools where subgroups of students (such as poor or minority students) consistently underperform.

Limits on DOE Secretary: The House bill prevents the Secretary of Education from creating additional burdens or adding new requirements on states and school districts through the regulatory or application review processes, particularly in the area of standards, assessments, and accountability. The House bill also requires the Secretary to follow specific procedures when issuing federal regulations, including providing notice to Congress before proposed rules are issued and developing an estimate of the total burden of any proposed rule. The Conference Report maintains these provisions.

Expanded Choice: The House bill reforms the Public Charter Schools Program to support the development and replication of high-quality charter schools and strengthens the magnet

schools program. The Conference Report retains the charter school provisions and improves the magnet schools language to allow magnet schools grants to be used for transportation services as long as those services can be sustained beyond the grant period.

Title I portability: The House bill includes a provision giving states the choice to allow Title I portability for low-income students, meaning Title I dollars would follow the child to a public school, including charter schools. The Conference Report does not include a Title I portability option; however, in its place, the Conference Report includes a weighted student funding pilot program. Titled the Flexibility for Equitable Per-Pupil Funding program, this program would allow up to 50 eligible school districts to combine ESEA funds with state and local education funding and allocate funding to schools based on a weighted student formula. Weighted student funding models attach education funding to individual students, which follows students to the schools they attend. If the program is successful after an initial three-year pilot period, any school district wishing to implement a weighted student funding system with federal funds would be eligible to apply.

Empowering parents: The House bill includes provisions to ensure parents have the information they need to hold schools accountable through transparent reporting and state and district report cards. The Conference Report enhances these provisions by additionally requiring information on the following to be included on state report cards: students in foster care, school discipline, chronic absenteeism, access to advanced coursework, and per-pupil expenditures.

State and local flexibility: The House bill creates the Local Academic Flexible Grant to provide states and school districts greater flexibility in spending funds to improve student achievement. The Conference Report creates the Student Support and Academic Enrichment Program, a block grant to states and school districts to address the needs of vulnerable students, as well as address academics and technology needs determined by leaders at the state or school district levels. The Conference Report also allows states and school districts to transfer 100 percent of the funds they receive under Title II-A (Teachers, Principals, and Other School Leaders Training and Recruiting Fund) and Title IV-A (Student Support and Academic Enrichment Program) between the two programs to best meet their unique needs. Funds can also be transferred from Title II-A and Title IV-A into Title I, Title III (English Learners) and Title V-B (Rural Education).

For more information, click [here](#) for a summary of the Conference Report provided by the Committee on Education and the Workforce.

## **BACKGROUND**

The Elementary and Secondary Education Act, which was signed into law in 1965, provides federal funding to elementary and secondary schools, primarily to supplement state and local funding for disadvantaged students. The law was routinely reauthorized until the early 2000s. The most recent authorization came in 2002, when Congress enacted the *No Child Left Behind (NCLB) Act of 2001*. ESEA has not been reauthorized since the *NCLB* expired in 2007.

The absence of a reauthorization has enabled the Administration to impose its education reforms through conditional waivers and by using other regulatory authority in some instances in a manner inconsistent with congressional intent. Consequently, states have been coerced into adopting certain education policies preferred by the Administration, such as Common Core. Click [here](#) for a

Congressional Research Service report regarding the issues surrounding Common Core state standards and assessments.

The major provisions of ESEA in current law include:

Title I authorizes funding to public schools to educate low-income students.<sup>1</sup> This title is intended to provide schools with the resources they need to strengthen educational programs and improve the academic achievement of such students.<sup>2</sup>

NCLB required states that receive Title I funding to administer yearly state-wide assessments in reading and math (for students in grades 3 through 8 and once in high school), and assessments once every three years in science. Schools are held accountable for making Adequate Yearly Progress (AYP) based mostly on the percentage of students testing as “proficient” on the annual reading and math assessments. Title I schools that repeatedly fail to meet AYP standards are subject to a series of federally-prescribed school improvement interventions. NCLB also required that all teachers teaching “core academic subjects” be “highly qualified.”<sup>3</sup> This means that they must hold at least a bachelor’s degree, a teaching certification, and have demonstrated subject-area knowledge in the subject they teach. Click [here](#) for a CRS report detailing the primary ways NCLB amended ESEA.

Title II is primarily targeted toward preparing, training, and recruiting quality teachers. Funds are provided to establish programs that fulfill this goal.<sup>4</sup>

Title III addresses the allocation of funds toward providing language instruction for those with limited English proficiency as well as for immigrant students.

Title IV provides funding for states to implement programs that address school safety. The title also provides opportunities for communities to establish or expand activities in community learning centers to improve opportunities for “academic enrichment.”<sup>5</sup>

Title V provides funding to support innovative state and local education reform efforts, promote the start-up of public charter schools, and develop programs to improve student, school and teacher performance.<sup>6</sup>

Title VI funds state development of academic assessments and includes the Rural Education Initiative, which provides funding to rural school districts to help meet the unique needs of rural communities.<sup>7</sup>

Title VII provides grants for Indian, Native Hawaiian, and Alaska Native education.

Title VIII addresses the Impact Aid Program. Impact Aid assists local school districts that have lost property tax revenue due to the presence of tax-exempt federal property within their school

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<sup>1</sup> Note: ESEA establishes a low-income threshold for Title I schools at 35 percent.

<sup>2</sup> <http://nces.ed.gov/fastfacts/display.asp?id=158>

<sup>3</sup> [http://edworkforce.house.gov/uploadedfiles/short\\_bill\\_summary\\_-\\_student\\_success\\_act.pdf](http://edworkforce.house.gov/uploadedfiles/short_bill_summary_-_student_success_act.pdf)

<sup>4</sup> <http://www2.ed.gov/policy/elsec/leg/esea02/index.html>

<sup>5</sup> <http://www2.ed.gov/policy/elsec/leg/esea02/pg55.html#sec4201>

<sup>6</sup> <http://www2.ed.gov/policy/elsec/leg/esea02/pg57.html>

<sup>7</sup> <http://www2.ed.gov/policy/elsec/leg/esea02/pg93.html>

boundaries (such as military bases). Schools are able to use most impact aid funds in any manner they choose in accordance with their local or state requirements.<sup>8</sup>

On November 17, 2015, the House passed a rule ([H. Res. 526](#)) that, among other provisions, approved S. 1177 with an amendment consisting of the House-passed version of H.R. 5, by a vote of [243 to 181](#). On November 19, 2015, the conferees reached agreement on a [framework](#) that represents a compromise between the House and Senate-passed bills. The Conference Report reconciles the House and Senate bills to reflect that agreement.

Following adoption by the conference committee of the agreed framework, Chairman John Kline noted, “No Child Left Behind has been failing students, parents, teachers, and state and local education leaders for far too long, and today we took an important step in replacing this flawed law . . . [This agreement will] replace a failed approach to education with a new approach that will reduce the federal role, restore local control, and empower parents.”<sup>9</sup>

### **COST**

A Congressional Budget Office (CBO) cost estimate is currently unavailable.

### **STAFF CONTACT**

For questions or further information please contact [Jerry White](#) with the House Republican Policy Committee by email or at 5-0190.

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<sup>8</sup> <http://www2.ed.gov/about/offices/list/oese/impactaid/whatisia.html>

<sup>9</sup> See Press Release—“[House-Senate Conference Committee Approves Framework to Improve K-12 Education](#),” November 19, 2015.